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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,089	07/18/2001	Oscar Mora	38146	7394

29569 7590 05/14/2003

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EXAMINER

WILSON, YOLANDA L

ART UNIT	PAPER NUMBER
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2184

DATE MAILED: 05/14/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/682,089

Applicant(s)

MORA ET AL.

Examiner

Yolanda Wilson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,6 and 9 is/are rejected.
- 7) ☒ Claim(s) 2,3,5,7,8 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 2,3,5,7,8,10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
2. Claim 10 is objected to for being dependent upon the incorrect independent claim. It is currently dependent upon claim 1. It should be dependent upon claim 6, because claim 6 claims a device. Claim 1 only claims a method.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,4,6,9 rejected under 35 U.S.C. 102(b) as being anticipated by Hemphill et al. (USPN 5696895). As appears in claim 1, Hemphill et al. discloses having a distributed network comprising a group of nodes sharing a common communication network supporting point-to-point and broadcast messaging and using peer-to-peer logic fault detection in which each node finds a pair to establish a peer-to-peer checking mechanism at network power up and reporting any irregular or non-received responses in column 3, lines 37-39,41-44, "The recovery agents 110 and 210 provide the monitoring and failed server recovery capabilities according to the invention. The

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recovery agents 110 and 210 further described below...they each provide and monitor for "heartbeat" signal from the other server."

5. As per claim 4, Hemphill et al. discloses having a node send a check message to its paired node requesting its updated status, having its paired node reply with a reply check message with any abnormal in column 5, lines 39-42, "If a heartbeat message is not being received from the other server at step 302 control proceeds to step 304 where it is determined whether a predetermined startup timeout is set to zero." Hemphill et al. discloses resending check message if no reply check message is received, repeating previous step a set number of times and reporting any non-received response if no reply check message is received in column 6, lines 43-45, "Through a configuration variable, the administrator can set, for example, 10 network N retries before the partner server is determined to have failed."

6. As per claim 6, Hemphill et al. discloses a fault detection means using peer-to-peer logic fault detection in which each node finds a pair to establish a peer-to-peer checking mechanism at network power up and a reporting means reporting any irregular or non-received responses in column 3, lines 37-39,41-44, "The recovery agents 110 and 210 provide the monitoring and failed server recovery capabilities according to the invention. The recovery agents 110 and 210 further described below...they each provide and monitor for "heartbeat" signal from the other server."

7. As per claim 9, Hemphill et al. discloses having a node send a check message to its paired node requesting its updated status, having its paired node reply with a reply check message with any abnormal status in column 5, lines 39-42, "If a heartbeat


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message is not being received from the other server at step 302 control proceeds to step 304 where it is determined whether a predetermined startup timeout is set to zero." Hemphill et al. discloses resending check message if no reply check message is received, repeating previous step a set number of times and reporting any non-received response if no reply check message is received in column 6, lines 43-45, "Through a configuration variable, the administrator can set, for example, 10 network N retries before the partner server is determined to have failed."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yolanda Wilson whose telephone number is (703) 305-3298. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (703) 305-9713. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


ROBERT BEAUSOLIEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100